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Moonbug Entertainment Limited and  
Treasure Studio, Inc.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

MOONBUG ENTERTAINMENT  
LIMITED and TREASURE STUDIO, INC.,

Plaintiffs,

v.

BABYBUS (FUJIAN) NETWORK  
TECHNOLOGY CO., LTD,

Defendant.

BABYBUS (FUJIAN) NETWORK  
TECHNOLOGY CO., LTD,

Counter-Plaintiff,

v.

MOONBUG ENTERTAINMENT  
LIMITED and TREASURE STUDIO, INC.,

Counter-Defendants.

Case No: 3:21-cv-06536-EMC

**PLAINTIFFS' REPLY IN SUPPORT OF  
MOTION TO DISMISS AND TO  
STRIKE COUNTERCLAIMS UNDER  
CALIFORNIA ANTI-SLAPP LAW**

Date: November 30, 2021  
Time: 10:00 am  
Judge: Hon. Edward M. Chen  
Courtroom: 5, 17th Floor

Complaint Filed: August 24, 2021  
Counterclaims Filed: September 28, 2021

1 Defendant indicated in its non-opposition to Plaintiffs’ motion to dismiss and anti-SLAPP  
2 special motion to strike under Section 425.16 of the California Code of Civil Procedure that it  
3 intends to amend its counterclaims on November 9, 2021—the same day that this reply is due.  
4 Docket No. 34. Defendant does not oppose Plaintiffs’ motion—nor could it, and instead asserts  
5 that its *anticipated* amended counterclaims will “moot plaintiffs’ motion to dismiss.” *Id.* at 1:7.  
6 As of the close of business on November 9, 2021, however, Defendant has yet to amend. To the  
7 extent it fails to do so, the Court should grant Plaintiffs’ motion in its entirety.

8 But even if Defendant does file an amendment at the last moment, it would not entirely  
9 moot Plaintiffs’ anti-SLAPP motion, “because the anti-SLAPP statute mandates that ‘a prevailing  
10 defendant on a special motion to strike shall be entitled to recover his or her attorney’s fees and  
11 costs.’” *See Collins v. Allstate Indem. Co.*, 428 F. App’x 688, 690 (9th Cir. 2011) (quoting Cal.  
12 Civ. Proc. Code § 425.16(b)(1)). When a complaint facing an anti-SLAPP challenge is dismissed  
13 or amended to remove the allegations subject to the anti-SLAPP motion, the next step is analysis  
14 of the moving party’s entitlement to fees. *See Robinson v. Alameda Cty.*, 875 F. Supp. 2d 1029,  
15 1046 (N.D. Cal. 2012) (“Because the issue of attorney fees and costs is not rendered moot by a  
16 dismissal, the Court proceeds to an analysis of the Defendant’s Motion to Strike.”); *Art of Living*  
17 *Found. v. Doe*, No. 5:10-cv-05022-LHK, 2012 U.S. Dist. LEXIS 61582, at \*76 (N.D. Cal. May  
18 1, 2012) (finding Defendant entitled to move for attorneys’ fees, because amendment of the  
19 complaint to remove claims that “would likely have become subject to another anti-SLAPP  
20 motion” is “tantamount to a voluntary dismissal of those claims”). Likewise, Plaintiffs’  
21 entitlement to attorneys’ fees and costs here from its anti-SLAPP motion is not rendered moot by  
22 Defendant’s stated intent to amend, and the Court must now consider Plaintiffs’ entitlement to  
23 fees, as requested in their opening motion. *See* Docket No. 31 at 20 (“Assuming the Court grants  
24 Moonbug’s motion to strike, Moonbug is entitled to its attorneys’ fees and requests the  
25 opportunity to file a motion for its reasonable attorneys’ fees in bringing that motion.”).

26 Here, faced with detailed argument that its state law counterclaims violated the California  
27 anti-SLAPP statute, Defendant indicated an intent to amend them. *See* Docket No. 31 at 14-20  
28 (detailing Defendant’s anti-SLAPP violation). This leaves Defendant two possible options.

1 Either Defendant will remove the state law claims entirely or it will restate them to remove the  
2 references to protected activity subject to the anti-SLAPP statute. Either way, such amendment  
3 is “tantamount to a voluntary dismissal” of the original counterclaims and Plaintiffs are entitled  
4 to their fees as a result. *See, e.g., Art of Living*, 2012 U.S. Dist. LEXIS 61582, at \*76.

5 If Defendant removes the state law counterclaims subject to the anti-SLAPP motion  
6 entirely, Plaintiffs are the prevailing parties and should be granted their fees. Defendant’s non-  
7 opposition suggests it is amending its counterclaims voluntarily, and not for any reason other than  
8 to avoid the anti-SLAPP statute. Defendant’s voluntary removal of the challenged claims is  
9 therefore a voluntary dismissal, which demonstrates that Plaintiffs “realized [their] objectives in  
10 the litigation,” dismissing the state law counterclaims. *See id.* (finding entitlement to fees, quoting  
11 *Plevin v. City & Cty. of S.F.*, No. C 11-02359 CW, 2011 U.S. Dist. LEXIS 83285, at \*13 (N.D.  
12 Cal. July 29, 2011)); *see also VACC, Inc. v. Davis*, No. 18-cv-03454-JCS, 2019 U.S. Dist. LEXIS  
13 57293, at \*33 (N.D. Cal. Apr. 2, 2019). Accordingly, Plaintiffs are the prevailing party if  
14 Defendant drops the state law counterclaims.

15 Likewise, Plaintiffs are the prevailing party and entitled to their fees if Defendant amends  
16 the counterclaims to remove references to protected activity. An anti-SLAPP motion obtains  
17 meaningful results supporting an award of attorneys’ fees where it causes the claimant “to remove  
18 references to [protected activity] from its amended complaint” or “alter the asserted theories of  
19 its claims,” even if the cause of action is not removed. *VACC, Inc. v. Davis*, No. 18-cv-03454-  
20 JCS, 2019 U.S. Dist. LEXIS 57293, at \*33 (N.D. Cal. Apr. 2, 2019); *see also Art of Living Found.*  
21 *v. Doe*, No. 5:10-cv-05022-LHK, 2012 U.S. Dist. LEXIS 61582, at \*76 (N.D. Cal. May 1, 2012);  
22 *Plevin v. City & Cty. of S.F.*, No. C 11-02359 CW, 2011 U.S. Dist. LEXIS 83285, at \*13 (N.D.  
23 Cal. July 29, 2011). Plaintiffs are thus the prevailing party under this scenario as well because  
24 they obtained meaningful results in causing Defendant to amend its counterclaims to remove  
25 reference to the protected activity.

26 Accordingly, Plaintiffs as the prevailing party should be afforded an opportunity to file a  
27 motion for attorneys’ fees and costs within fourteen days of the Court’s order. Plaintiffs have  
28 provided a revised proposed order with this reply for this purpose.

1  
2 Dated: November 9, 2021

Respectfully submitted,

3 /s/ Ryan Tyz

4 Ryan Tyz

5 Attorneys for Plaintiffs  
6 Moonbug Entertainment Limited and  
7 Treasure Studio, Inc.  
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